

THE LAW OFFICE OF

ELISA HYMAN, P.C.

April 21, 2023

VIA ECF

Honorable Paul A. Engelmayer, U.S.D.J.
United States District Court - Southern District of New York
40 Foley Square
New York, New York 10007

Re: *P.L., et al. v. N.Y.C. Dep't of Educ., et al.*, 22-cv-5805 (PAE)

Dear Judge Engelmayer:

I represent the Plaintiffs in the above-referenced case and write jointly with counsel for the Defendants pursuant to Your Honor's Order dated April 5, 2023. ECF No. 19. The parties respectfully request an adjournment of the initial conference currently scheduled for April 25, 2023 at 3:00 pm and the corresponding Case Management Plan ("CMP") to allow the parties to focus on settlement.

1. Overview of the Claims

This action is brought by Plaintiff P.L., individually and on behalf of her son, J.L-M., a special education student suffering with several mental health disorders that impact his ability to learn. The complaint alleges, *inter alia*, that the New York City Department of Education ("DOE"), Chancellor David Banks and the New York City Board of Education ("BOE") (collectively "Defendants" or "DOE") failed to implement multiple orders of administrative hearing officers under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 *eq seq.* Additionally, this action raises systemic claims and brings claims pursuant to the Due Process Clause of the 14th Amendment of the U.S. Constitution, 42 U.S.C. § 1983, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504"), the New York State Constitution, and New York State Education Law. Finally, Plaintiffs seek their attorneys' fees for the underlying administrative actions, as well as the instant federal case.

Plaintiffs filed this action on July 7, 2022. ECF No. 1. Defendants filed their Answer to the Complaint on April 4, 2023. ECF No. 18.

2. Motions

Currently, there are no outstanding motions. The parties will likely seek leave to file summary judgment motions after discovery.

3. Settlement

The parties are interested in trying to resolve this case via settlement. Plaintiffs have requested certain information to aid them in crafting a settlement demand. The implementation claims pertain to decisions in four administrative proceedings and Defendants are investigating to determine what, if anything, remains outstanding, and will provide this information to Plaintiffs to facilitate settlement negotiations.

To aid in the settlement process, the parties jointly request a referral to the assigned magistrate judge, the Honorable Robert W. Lehrburger, and respectfully request a pre-settlement telephonic conference with Judge Lehrburger on or after May 8, 2023, or at time thereafter convenient for the Court.

As Your Honor is aware, it is difficult for these IDEA cases to be on simultaneous settlement and litigation tracks due to the fee-shifting provision in the IDEA. For this reason, the parties respectfully request an adjournment of the initial conference and the CMP *sine die* while Judge Lehrburger oversees settlement. The parties propose submitting a status report to Your Honor in 60 days, or no later than June 20, 2023.

Thank you for Your Honor's consideration of this request.

Respectfully Submitted,
THE LAW OFFICE OF ELISA HYMAN, P.C.

By: Erin O'Connor

Erin O'Connor, Esq., Of Counsel
Counsel for Plaintiffs

cc: W. Simone Nicholson
Special Assistant Corporation Counsel, *Attorney for Defendants*

Granted. The Court will refer, by a separate order, this case to the Hon. Robert W. Lehrburger, Magistrate Judge, for settlement, and adjourns the initial pretrial conference to June 27, 2023 at 11 a.m. The parties shall file a joint status report no later than June 20, 2023. SO ORDERED.

Paul A. Engelmayer
PAUL A. ENGELMAYER
United States District Judge
April 24, 2023